

Tuesday - April 15, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

1997 Summertime Kids Grant Application

Summary: Funds are available through the Community Foundation of Western North Carolina in the Summertime Kids 1997 program to provide fun and safe summer activities for youth. The City of Asheville has applied for funding for enrichment adventure activities for the Summer Teen Program.

The Summer Teen Program is designed to provide recreation activities for teens ages 13-16 for eight weeks during the summer. The program is located in seven locations throughout the city in community centers, parks, and low income neighborhoods. The Teen Program will offer bowling, swimming and pool parties, hiking, skating, tennis, golf, fitness, dances, games, arts and crafts, sports and tournaments, field trips, and special events. Grant funds will be used to implement the enrichment adventure activities of a challenge ropes course, rock climbing, horseback riding, and rollerblading. The amount of the grant request is \$2,000. The Parks and Recreation Department's match of \$27,080 will be in labor, administration, transportation, supplies, and training for the overall Summer Teen Program. The funds are budgeted in the Recreation Division.

The Parks and Recreation Department recommends the approval of the application for the grant funds through the Community Foundation of Western North Carolina through the Summertime Kids 1997 program.

Advertise Sale of Disposal Parcel 5 at Courtland and Montford in the Head of Montford Redevelopment Project

Summary: The consideration of a bid from Robert A. Eidus in the amount of \$39,100.00 for the purchase of Disposal Parcel 5 in the Head of Montford Redevelopment Project.

Disposal Parcel 5 is zoned R4 Residential and is located on Montford Avenue at the corner of Courtland Avenue. It comprises 8,712 square feet of land along with improvements consisting of a small bungalow and a small commercial type structure previously Miller Cab Co. The Fair Reuse Value for both parcels is \$39,000. The proposed use for the property in the Head of Montford Redevelopment Plan is for office use compatible with the zoning.

Robert A. Eidus has submitted a bid to purchase Disposal Parcel 5 in the amount of \$39,100. The bid is contingent upon the City financing 90% of the purchase price for a period of one year at 7% interest. The proposal includes a plan to renovate the buildings for office space along with landscaping at an anticipated development cost of \$19,850. The renovated structures will be occupied by an Internet server and a portion of the offices of the North Carolina Ginseng and Goldenseal -2-

Company, a medicinal organic herbs and roots marketer which is owned and operated by Mr. Eidus.

The Montford Neighborhood Advisory Committee has expressed support for the project.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Community Development staff recommends adoption of the resolution authorizing advertisement for upset bids.

#### Acceptance of Greenway Easements

Summary: This resolution would authorize the Mayor to accept donations of real property for greenways or greenway systems.

The City of Asheville is interested in establishing greenways or greenway systems throughout the corporate limits of the City of Asheville. Property owners may offer to donate or convey to the City of Asheville real property or easements over real property so that the property may be used for the greenway systems. It is necessary to establish a process for acceptance of these donations or conveyances.

The City Attorney's Office recommends adoption of the resolution.

#### Budget Amendment re: Additional Funds for Fair Housing

Summary: This budget amendment will increase federal funding for the tenth year of the Fair Housing Assistance Program.

On April 28, 1987, the City of Asheville was recognized by HUD as having a fair housing enforcement program which is substantially equivalent to that of the Federal Fair Housing Act. The City has been carrying out its fair housing program under contract with the Asheville-Buncombe Community Relations Council and Fair Housing Commission since January 1988.

In September 1996 the City received funding approval from HUD of \$16,900 for the current Fair Housing Assistance Program. On March 31, 1997, the City was notified that an additional \$15,000 will be received from the Fair Housing Assistance Program for the tenth year funding. The total funding for this program for the tenth year will now be \$31,900. The program is administered under contract by the Asheville-Buncombe Community Relations Council which provides staff support to the Asheville-Buncombe Fair Housing Commission. The City Community Development Division serves as Lead Entity and monitors the program.

#### 1997 Bele Chere Budget

Summary: Over the past several months, various committees of the Bele Chere Board and staff liaisons have been working to complete a balanced budget for the 1997 Bele Chere Festival. This budget ordinance establishes this budget, in the amount of \$433,200, for anticipated expenditures and revenues for the upcoming festival.

The Parks and Recreation Advisory Board, the Bele Chere Board, and the Parks and Recreation staff request approval by City Council of the budget ordinance.

### Grant Application Task Force

Summary: Staff provided City Council an update with regard to the Grant Application Task Force established to coordinate the City's efforts to secure grants.

At the recent City Council Retreat, Council asked the Parks and Recreation Department to develop a Grant Application Task Force to serve as a tool to coordinate the City's efforts to secure grants. An internal network was born out of the knowledge that funding opportunities are heavily weighted for organizations who approach problem solving from a multi-disciplinary perspective. Collaboration, cooperation, and partnerships are key words in virtually all federal, state, and private funding proposals. We recognize the need to foster the same sense of collaboration and partnership among City departments. Only by sharing resources and information can we strengthen the City's position in future funding applications. The Task Force will meet on a regular schedule to coordinate and manage grant applications and share resources.

The Grant Application Task Force met on April 9, 1997, to determine the logistics and objectives of the Task Team. Representatives include staff members of City departments who are involved in applying for and managing grant funds.

#### Task Team Objectives:

-  Identify City departments who are involved in applying for grants and participate in the Task Team;
-  Learn more about individual department function, structure, mission, and grant needs;
-  Provide a forum to exchange ideas and program concepts;
-  Coordinate our grant resources and application efforts;
-  Enhance our ability to locate and match grant resources with projects;
-  Share information and resources to strengthen the City's position for funding; and
-  Enhance and foster collaborative partnerships among departments and community organizations through public/private/non-profit partnerships.

This information serves as a status report to City Council outlining the formation and objective of the Grant Application Task Force for the City of Asheville.

### Ray L. Kisiah Park MSD Easement and Budget Amendment

Summary: The City of Asheville and the Metropolitan Sewerage District of Buncombe County wish to enter into an easement agreement for a sewer easement across Ray L. Kisiah Park. The City of Asheville and the Metropolitan Sewerage District of Buncombe County have been working for a period of time to address an easement agreement across property operated by the Parks and Recreation Department. The parcel of property is located at Ray L. Kisiah Park. In return for the easement, MSD has agreed to pay the City of Asheville \$10,500 for the relocation of the sewer line. This agreement was part of the original negotiation concerning the construction of Ray L. Kisiah Park which resulted in

the moving of an existing sewer line to a new location. The Parks and Recreation staff and the Legal Division have reviewed and approved this agreement. -4-

In addition, approval is requested for a budget amendment to allocate the \$10,500 into the existing capital improvement budget for Ray L. Kisiah Park. This money will be used to construct a storage building at the park.

The Parks and Recreation Department recommends that City Council approve an easement agreement across Ray L. Kisiah Park and the budget amendment which will appropriate funds into the existing capital improvement budget to be expended for park improvements.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

#### TELECOMMUNICATIONS TOWERS

Ms. Julia Cogburn, Planning & Development Director, said that BellSouth Communications seeks to discuss with City Council concerns over the City's current telecommunications tower regulations.

BellSouth Mobility recently submitted to Asheville City Council a letter detailing concerns the company has with the City's telecommunication tower regulations, most importantly BellSouth's inability to service the Beaverdam and Haw Creek areas. She then reviewed with Council the following listing of the BellSouth proposals. Mr. Clay Dover spoke on behalf of BellSouth Mobility.

#### BellSouth Proposals

1) Require only Master License to be provided to the City each year as opposed to the voluminous license for each facility.

STAFF COMMENT: Staff is looking into this with BellSouth to insure that the City receives the information it feels is needed on an annual basis.

2) Allow use of strobe lighting.

STAFF COMMENT: It was staff's feeling in our earlier work on the ordinance as currently adopted, that strobe lighting was not considered the preferred lighting choice for the City of Asheville. The current provision states that FAA standards must be met.

Mr. Dover said that a strobe or flashing red light would be consistent with FAA guidelines regarding safety.

Discussion resulted in keeping lighting as least obtrusive to the community and still provide safety which the FAA requires. Consensus of Council to limit use of strobe lights.

3) Reduce setbacks required.

STAFF COMMENT: Staff realizes this is a policy decision; however, they suggest discussing BellSouth's request that towers be allowed in all districts, subject to obtaining a conditional use permit from City Council.

Mr. Dover said that BellSouth as been unable to find any location in the

Beaverdam and Haw Creek areas which would permit a -5-

telecommunication tower, or any other tower for co-location, that will meet the coverage requirements. In the Beaverdam area, the 125 foot setback wipes out any possibility of locating a BellSouth tower along Merrimon Avenue and other potential sites are eliminated since they are situated in a residential zoning district under the current ordinance and as proposed in the UDO. The telecommunications towers ordinance eliminates all practical and feasible avenues to providing coverage to two important areas within the City of Asheville zoning jurisdiction - Haw Creek and Beaverdam. He presented Council with several letters from clients they are unable to service because they are limited in their coverage area.

By allowing towers in all districts, subject to obtaining a conditional use permit, any telecommunication company would have the opportunity to present their technology to the Council and the Council would then have the right to approve towers on a case-by-case basis. He then passed out examples of stealth technology that BellSouth believes can be used in harmony with certain areas of the City where towers are now excluded. With a conditional use permit, BellSouth would have an opportunity to present their proposed plans for new towers by showing they are compatible with surrounding neighborhoods.

4) Allow antennas on buildings.

STAFF COMMENT: Antennas are already allowed if meeting certain conditions.

5) Reconsider suggested amendment on the prohibition within one-half mile of the Blue Ridge Parkway.

STAFF COMMENT: This issue is will come before City Council for a public hearing on April 22, 1997. Staff feels this is a policy decision.

6) Do not adopt suggested prohibition for telecommunications towers within "viewsheds of superior quality."

STAFF COMMENT: This issue is will come before City Council for a public hearing on April 22, 1997. Staff feels this is a policy decision.

7) Allow use of other colors for telecommunications towers.

STAFF COMMENT: Staff has requesting additional information on FAA requirements regarding color; otherwise, they see no problem with condition being changed to allow for "blending color" as approved by the body issuing conditional use approval.

8) Eliminate the last sentence of the provision concerning looking for opportunities to locate antenna on existing structures.

STAFF COMMENT: The sentence in the ordinance which refers to location on other existing structures is simply a list of suggestions.

9) Allow telecommunication towers in all districts with appropriate conditions.

-6-

STAFF COMMENT: See number 3 above for staff comment and discussion.

10) Allow for telecommunication antennas in historic districts if the applicant receives a certificate of appropriateness from the Historic Resources Commission. Also, elimination of the 1000 foot limitation for towers that are

reasonably concealed from view from the Historic District.

STAFF COMMENT: Staff feels that if antennas are concealed or blended in well enough on a historic structure, they might be able to receive a certificate of appropriateness.

City Council then discussed their concern of balancing the visual effect of the community and the need to make Asheville technology ready. They felt that they may be able to assist BellSouth with some of it's concerns by the use of stealth technology.

Mayor Martin instructed staff to review the comments and suggestions and report back to City Council with recommendations in which we can help BellSouth meet their needs.

BELE CHERE ALCOHOL POLICY AND PROVISIONS FOR POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1997 BELE CHERE FESTIVAL

Mr. Irby Brinson, Director of Parks & Recreation, said that in May, 1996, Asheville City Council approved an ordinance prohibiting consumption and/or possession of open containers of malt beverages and unfortified wine on public streets and other property owned or occupied by the City of Asheville. In order to allow for the control of the sale and consumption of alcohol at Bele Chere, it is necessary for City Council to approve this resolution.

Over the past several months, a Bele Chere Alcohol Task Force has been meeting to address concerns from downtown merchants, festival participants and Bele Chere Board members concerning alcohol at Bele Chere. The Task Force was made up of representatives from downtown merchants, City Council, Parks and Recreation staff, Legal Division, Asheville Police Department, the Alcohol Law Enforcement Board and Bele Chere Board. The recommendations from this task force are incorporated into the resolution and are as follows:

I. General

A. Bele Chere beer booths will be operated by the City and staffed by non-profits as in the past.

II. Wristbands: Sell for \$1.00 each.

A. Wristbands are a permit to carry alcohol, not proof of ID.

B. Wristband sellers will be asked to ID the person, however the final responsibility for abiding by ABC laws lies with the beer server.

C. Wristbands can be purchased by the merchant before the festival for \$0.90 each and can be sold for \$1.00 each.

D. A different color wristband will be used each day.

E. Wristbands will be bought back from the merchants in full sheets only.

F. The specifics of payment from merchants to the city have yet to be determined. -7-

III. Site Locations

A. There has been a 1/3 reduction in beverage stations. There will be nine beverage stations in 1997:

1. Battery Park
2. Haywood and College
3. Pritchard Park
4. Lexington and College
5. Pack Square
6. Pack Square
7. College at Sculpture
8. S. Spruce and College
9. City-County Plaza

The exact locations are to be determined after further research of other logistical concerns.

B. The location of the maze will be changed to allow more traffic flow to the City/County Plaza area.

C. Festival beverage sales are Friday noon to 10:00 p.m., Saturday 11:00 a.m. to 10:00 p.m., and Sunday noon to 6:00 p.m.

D. Consumption of alcoholic beverages will be allowed within the festival area 30 minutes after sales end on each day.

#### IV. Alcohol-free Areas

A. The alcohol-free area will include the Radisson parking lot and the area from the cross walk at the County Courthouse down to the children's area.

B. Signs at the alcohol-free area will be larger this year.

C. Advertise alcohol-free areas in the tabloid.

#### V. Alcohol Sales:

##### A. Laws and Ordinances:

1. APD and ALE will meet individually with all merchants who hold an ABC license prior to the festival to explain their enforcement efforts.

2. APD in conjunction with ALE will stringently enforce state law and city ordinances related to the festival for alcohol sales and consumption.

3. Individual merchants are to establish their prices at the beginning of each day. Prices must remain the same for that day. The festival will follow this procedure as well.

4. The City ordinance states that coolers are not allowed within the festival area. APD will enforce this. This will be advertised in the tabloid, on the shuttles, and on the barricade signs.

5. Signage for merchant alcohol sales is limited by ABC regulation to lettering five inches tall and two inches apart. Only one sign per establishment.

6. Hawking is not allowed for alcoholic beverages.
7. Under state law, merchants can sell alcohol until 2:00 a.m.
8. ALE will send a letter to all downtown merchants holding an ABC license stating that they cannot remove their windows for the purpose of selling alcoholic beverages. -8-
9. All ABC laws remain in effect. Effect of Council Resolution, if adopted, is to permit open containers and public consumption.

B. Bele Chere/Merchants Voluntary Compliance:

1. The point of sale should be no less than 5 feet from the door unless the existing point of sale counter is less than 5 feet from the door as of the date this is approved by City Council.
2. Only plastic cups are allowed on the street. Pursuant to ABC law, merchants must sell beer in the unopened, manufacturer's original container and ask the patron to pour this into a cup upon leaving the premises.
3. Bele Chere and merchants will all use a clear plastic cup. Bele Chere reserves the right to place logos on the cup if this is a sponsored item.
4. Merchants will provide and manage appropriate trash receptacles at the exits of their establishments.
5. Merchants will voluntarily "police" themselves and the Bele Chere merchant representatives will encourage enforcement.

This task force feels that the cooperative arrangement between all parties has been successful in trying to address the major issues based upon past history of the festival.

The Parks and Recreation Advisory Board, Bele Chere Board, Bele Chere Alcohol Task Force, and the Parks and Recreation staff recommend approval of the recommendations and the resolution to allow alcohol during the Bele Chere Festival.

Councilman Sellers reiterated Council's goal to be out of the alcohol business by 1999.

Upon inquiry of Mayor Martin about what will replace the loss of revenue from the sale of alcohol, Mr. Brinson said that they are looking to increase sponsorships and will probably continue to sell wristbands to help with the lost revenue.

Mr. Brinson answered Vice-Mayor Field's concerns about control of alcohol during Bele Chere if the City is proposing to be out of the "alcohol business" by 1999.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

LAKE CRAIG AGREEMENT

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department requests City Council approval of an agreement between



the City of Asheville, County of Buncombe, RiverLink, Western North Carolina Soccer Foundation, and Friends of the Western North Carolina Nature Center to jointly develop the "Lake Craig Property" for recreation and educational use.

The Asheville City Council authorized the Parks and Recreation Department to participate as a member of the Lake Craig Task Force in September, 1995. Over the past 1 1/2 years, members of the Parks and Recreation Department, Buncombe County, RiverLink, Western North Carolina Soccer Foundation, and Friends of the Western North Carolina -9-

Nature Center have been meeting to discuss the feasibility of purchasing and developing "Lake Craig Property" for recreation and educational use. During this period of time, an agreement has been reviewed by all parties in regard to each party's commitment to making this project a reality. The agreement outlines each party's responsibilities, noting that the City will purchase the property and the WNC Soccer Foundation will raise the necessary funds to build and maintain the project. It is the intent of the Task Force to have this agreement signed and completed within the next month in order to proceed with the next step of the project.

The Parks and Recreation Department and the Lake Craig Task Force recommends that City Council approve the Lake Craig Project agreement.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RESOLUTION NO. 97-45 - RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE A COMPLAINT AND DECLARATION OF TAKING AND OTHER RELATED DOCUMENTS IN THE BUNCOMBE COUNTY SUPERIOR COURT FOR THE CONDEMNATION OF CERTAIN TRACTS OF REAL PROPERTY LOCATED IN THE WEST ASHEVILLE ANNEXED AREA FOR THE CONSTRUCTION AND INSTALLATION OF WASTEWATER LINES

Assistant City Manager Doug Spell said that this is for Council's consideration of adopting a "Resolution of Condemnation" for four (4) properties located in the Woodside Hills Subdivision.

The City of Asheville has previously awarded a contract for the installation of a gravity sanitary sewer system to serve the Woodside Hills Subdivision and construction is underway. This project will provide access to public sanitary sewer service within the subdivision. I would note that there are several properties in this subdivision with failing septic tanks and the activation of a portion of the gravity sanitary sewer line has just recently provided an opportunity for these properties to abandon the septic systems and connect to public sanitary sewer.

Over the past several months, easement negotiations have been on-going with property owners in the Woodside Hills Subdivision. However, there are four (4) properties in which agreement has not been reached at this time regarding a sanitary sewer easement. Due to the time factor of having a contractor on site and the need to keep the construction project moving smoothly, staff requests Council consideration of a "Resolution of Condemnation" on four (4) properties in which easement negotiations have not been finalized. These properties are as follows:

- Donna Kay Haney property along Mayfair Drive (PIN 9617.09-07-1133);
- Louis and Sue Waller property along Crestwood Lane (PIN 9617.08-97-4718);

- Fletcher Adams property along Pritchard Road (PIN 9607.12-95-0739);
- Regina Sue Moss property along Mayfair Drive (PIN 9607.12-97-2054).

The City is in the process of appraising each of these properties to determine the fair market value of the property taking into -10-

consideration the provision of sanitary sewer service. From the City's perspective, this is a definite enhancement of the properties.

He noted that the City will continue to work with these property owners to attempt to finalize the easement negotiations. The primary purpose of the "Resolution of Condemnation" is to establish a time parameter of 30 days, which is a prerequisite to the filing of the complaint and "Declaration of Taking" so that construction may proceed.

Staff recommends that the Resolution of Condemnation be approved for the four (4) properties listed herein with direction for staff to continue to negotiate with the property owners to try and reach resolution if possible.

Councilman Worley moved to waive the rules and take formal action on this item at this time. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mayor Martin said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 97-45. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 42

#### OTHER BUSINESS

Upon inquiry of Councilman Cloninger about some pockets of annexed areas in the City of Asheville that still don't have sewer services, City Manager Westbrook said that he is working with MSD on identifying those areas.

#### CLOSED SESSION

At 4:25 p.m., Councilman Worley moved to go into closed session for the following reasons: (1) to discuss matters related to the location or expansion of industries or other businesses in the area served by the Asheville City Council - The statutory authorization is contained in G.S. 143-318.11 (a) (4); and (2) to establish, or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the price and other material terms in a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease - The statutory authorization is contained in G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Sellers and carried unanimously.

At 4:52 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

#### ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:52 p.m.

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CITY CLERK MAYOR

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